

IC 6-2.1-5

Chapter 5. Returns

Note: This chapter effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

IC 6-2.1-5-1

Repealed

(Repealed by P.L.260-1997(ss), SEC.95.)

IC 6-2.1-5-1.1

Quarterly returns; taxable years; time for filing; payments; exceptions

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 1.1. (a) This section applies to taxable years beginning after December 31, 1993.

(b) Except as provided in subsections (d) through (g), a taxpayer shall file gross income tax returns with, and pay the taxpayer's gross income tax liability to, the department by the due date of the estimated return. A taxpayer who utilizes a taxable year that ends on December 31 shall file the taxpayer's estimated gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer utilizes a taxable year which does not end on December 31, the due dates for filing estimated gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year.

(c) With each return filed, with each payment by cashier's check, certified check, or money order delivered in person or by overnight courier, and with each electronic fund transfer made, a taxpayer shall pay to the department the remainder of:

- (1) either twenty-five percent (25%) of the estimated or the exact amount of gross income tax which is due; minus
- (2) the amount of gross income tax which was withheld pursuant to IC 6-2.1-6.

(d) If a taxpayer's estimated annual gross income tax liability does not exceed one thousand dollars (\$1,000), then the taxpayer is not required to file an estimated gross income tax return.

(e) If a taxpayer is required to file an annual gross income tax return under section 2.1 of this chapter, and pays in full the taxpayer's gross income tax liability for that taxable year before the taxpayer's final estimated return is due, then the taxpayer is not required to file the final estimated gross income tax return for that same taxable year.

(f) If the department determines that a taxpayer's:

- (1) estimated quarterly gross income tax liability for the current year; or
- (2) average estimated quarterly gross income tax liability for the preceding year;

exceeds, before January 1, 1998, twenty thousand dollars (\$20,000) and, after December 31, 1997, ten thousand dollars (\$10,000), the

taxpayer shall pay the estimated gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(g) If a taxpayer's gross income tax payment is made by electronic funds transfer, the taxpayer is not required to file an estimated gross income tax return.

As added by P.L.278-1993(ss), SEC.19. Amended by P.L.18-1994, SEC.5; P.L.19-1994, SEC.3; P.L.2-1995, SEC.31; P.L.260-1997(ss), SEC.50; P.L.28-1997, SEC.6; P.L.2-1998, SEC.31.

IC 6-2.1-5-2

Annual returns; payment; time for filing; persons not filing

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 2. (a) Every taxpayer who receives more than one thousand dollars (\$1,000) in gross income during a particular taxable year shall file with the department an annual gross income tax return. At the time of filing an annual return, a taxpayer shall pay to the department an amount equal to the remainder of: (i) the total gross income tax liability incurred by the taxpayer for that particular taxable year; minus (ii) the sum of (A) the total amount of gross income taxes which were previously paid to the department for any quarter of that same taxable year; plus (B) any gross income taxes which were withheld from the taxpayer for that same taxable year pursuant to IC 6-2.1-6.

(b) Except as provided in subsection (d), a taxpayer who utilizes a taxable year which ends on December 31, shall file his annual gross income tax return and pay the tax, if any, for that taxable year on or before April 15 of the immediately succeeding tax year.

(c) Except as provided in subsection (d), if a taxpayer utilizes a taxable year which does not end on December 31, the department shall prescribe the due dates for filing annual gross income tax returns and paying the tax.

(d) Any taxpayer whose gross income is either wholly or partially subject to the withholding procedures described in IC 6-2.1-6 shall file his annual gross income tax return on or before March 1 of the calendar year immediately following the year during which the tax was withheld.

(e) Any taxpayer who does not file an annual gross income tax return for a taxable year may be required to execute and file with the department a sworn statement that he did not receive more than one thousand dollars (\$1,000) of taxable gross income during that taxable year.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-2.1

Annual returns; income in excess of \$1,000; taxable years; payment; time for filing; failure to file

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 2.1. (a) Notwithstanding section 2 of this chapter, this section

applies to taxable years beginning after December 31, 1993, and ending before January 1, 1998.

(b) Every taxpayer who receives more than one thousand dollars (\$1,000) in gross income during a particular taxable year shall file with the department an annual gross income tax return. At the time of filing an annual return, a taxpayer shall pay to the department an amount equal to the remainder of:

(1) the total gross income tax liability incurred by the taxpayer for that particular taxable year; minus

(2) the sum of:

(A) the total amount of gross income taxes which were previously paid to the department for any estimated gross income tax for that same taxable year; plus

(B) any gross income taxes which were withheld from the taxpayer for that same taxable year pursuant to IC 6-2.1-6.

(c) Except as provided in subsection (e), a taxpayer who utilizes a taxable year which ends on December 31 shall file his annual gross income tax return and pay the tax, if any, for that taxable year on or before April 15 of the immediately succeeding tax year.

(d) Except as provided in subsection (e), if a taxpayer utilizes a taxable year which does not end on December 31, the department shall prescribe the due dates for filing annual gross income tax returns and paying the tax.

(e) Any taxpayer whose gross income is either wholly or partially subject to the withholding procedures described in IC 6-2.1-6 shall file his annual gross income tax return on or before March 1 of the calendar year immediately following the year during which the tax was withheld.

(f) Any taxpayer who does not file an annual gross income tax return for a taxable year may be required to execute and file with the department a sworn statement that he did not receive more than one thousand dollars (\$1,000) of taxable gross income during that taxable year.

As added by P.L.278-1993(ss), SEC.20.

IC 6-2.1-5-3

Forms; names of stock or securities; prohibition

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 3. Any forms prescribed by the department under IC 6-8.1-3-4 which concern the collection of the gross income tax may not require a taxpayer to show the corporate name or title of any stock, or the name of the obligor of any other security, from which the taxpayer derives gross income.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-4

Multiple business locations; information returns

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 4. The department may require a taxpayer who receives gross income at two (2) or more business locations within the state to file

with each quarterly and annual gross income tax return, an information return which shows the allocation of gross income to each business location at which the gross income was received.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-4.1

Receipt of income at two or more business locations; information return; filing

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 4.1. (a) Notwithstanding section 4 of this chapter, this section applies to taxable years beginning after December 31, 1993, and ending before January 1, 1998.

(b) The department may require a taxpayer who receives gross income at two (2) or more business locations within the state to file with each quarterly and annual gross income tax return, an information return which shows the allocation of gross income to each business location at which the gross income was received.

As added by P.L.278-1993(ss), SEC.21.

IC 6-2.1-5-5

Corporate affiliation; consolidated returns; election

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 5. (a) Corporations are affiliated if at least eighty percent (80%) of the voting stock of one (1) corporation (exclusive of directors' qualifying shares) is owned by the other corporation. Every corporation affiliated with another corporation is affiliated with every corporation that is affiliated with such other corporation. All corporations so affiliated constitute an affiliated group.

(b) Corporate members of an affiliated group that are incorporated in the state of Indiana or are authorized to do business in the state of Indiana may file a consolidated gross income tax return.

(c) Each corporate member of an affiliated group that files a consolidated gross income tax return is jointly and severally liable for the gross income tax imposed on the affiliated group and on each member of that group.

(d) An affiliated group must elect at the time it files its first annual return whether or not it will file a consolidated gross income tax return or whether each corporate member of the group will file a separate gross income tax return. After this election is made, the group must file gross income tax returns in the same manner as the group's first annual return is filed, unless the department allows the group to change the manner in which it files gross income tax returns.

(e) The first consolidated gross income tax return filed by an affiliated group may be filed by any member of the group incorporated in Indiana or authorized to do business in Indiana. Subsequent consolidated returns shall be filed by the member who filed the first consolidated return for the group, unless the department allows another member to file the group's consolidated returns.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-6

Repealed

(Repealed by P.L.71-1993, SEC.28.)

IC 6-2.1-5-7

Fiduciaries operating business of taxpayer; lien; distributees; receipt of income from nonresident fiduciary

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 7. (a) A receiver, trustee in dissolution, trustee in bankruptcy, or assignee, operating the property or business of a taxpayer shall file a gross income tax return for that taxpayer and pay any tax due on gross income reported in the return, in the same manner that the taxpayer would be required to file a return and pay the tax under this chapter if the taxpayer had control of the business or property.

(b) Any fiduciary filing a return under subsection (a) shall report all previously unreported income derived from property or business controlled by the fiduciary.

(c) The gross income tax liability imposed upon any property held by a fiduciary described in subsection (a) is a lien upon the property from which the gross income was derived.

(d) If any gross income tax is due and unpaid after a fiduciary described in subsection (a) is discharged, each distributee is liable for the gross income tax due in an amount equal to the quotient of: (i) the distributee's share of the business or property sold; divided by (ii) the total distribution made by the fiduciary.

(e) Any resident of Indiana who is a fiduciary described in subsection (a), and who receives gross income for a distributee who is not an Indiana resident, must file a gross income tax return and pay the gross income tax due with that return before making a distribution to the distributee.

(f) Any taxpayer who is a resident of Indiana, and who receives gross income from a fiduciary described in subsection (a) who is not a resident of Indiana, shall file a return reporting the receipt of such gross income and shall pay any gross income tax due on such gross income, as though the gross income had been received directly by the taxpayer, unless the nonresident fiduciary already paid the tax due on that gross income.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-8

Real estate; sales by commissioners appointed by court; application of provisions governing fiduciaries

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 8. (a) A commissioner appointed by a court for the sale of real estate shall file a return showing the gross income received from the sale of real estate, in the same manner that the owners of the real estate would have been required to file under this chapter if they had controlled the real estate at the time of sale. The commissioner shall pay the tax imposed upon the gross income received from the sale of

the real estate.

(b) The provisions contained in subsections (d), (e), and (f) of section 7 of this chapter concerning the payment of gross income tax, filing of gross income tax returns, and personal liability for the payment of gross income tax, are applicable to the fiduciaries described in subsection (a) and their distributees.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-9

Consignees

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 9. A taxpayer who receives gross income from a consignment sale in which the taxpayer was the consignee, shall file a gross income tax return showing the gross income received from the sale.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-10

Money payable or credited to another taxpayer; information returns

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 10. (a) Every individual, partnership, corporation, limited liability company, joint stock company, or association that is either a resident of this state or has a place of business in this state, shall file an information return with the department if he has the control or custody of, receives, or makes payment of:

- (1) dividends of six hundred dollars (\$600) or more;
- (2) interest of six hundred dollars (\$600) or more;
- (3) rents, premiums, annuities, compensations, or other fixed or determinable annual or periodic amounts, which are subject to the tax imposed by this article and must be reported by the taxpayer under federal income tax law; or
- (4) salaries, wages, or compensation of one hundred dollars (\$100) or more;

which are paid, payable, or credited to another taxpayer and are subject to the gross income tax.

(b) The returns required to be filed by subsection (a) must be filed on or before January 31 of each year unless the department grants an extension for the filing of such returns.

As added by Acts 1981, P.L.77, SEC.1. Amended by P.L.8-1993, SEC.81.

IC 6-2.1-5-11

State contracts for buildings and improvements; information returns; requisites

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 11. (a) Whenever the state, or an agency, municipal corporation, political subdivision, or taxing district of this state, enters into a contract for the construction of a building or other improvement

within the state, including contracts for architectural, engineering, or designing services, the officer who executes the contract or controls the expenditure of funds by the governmental entity shall file a return with the department. The return must contain:

- (1) a list of the name and address of every contractor and known subcontractor who is performing or will perform any contract for the construction of any building or improvement within the state of Indiana, including contracts for architectural, engineering, or designing services, for which payment is controlled by the filing entity;
- (2) a statement of the gross income paid or to be paid to such contractor or subcontractor, and the amount of gross income taxes withheld from such payments; and
- (3) the date such withheld gross income tax was remitted to the department.

(b) Every contractor who is performing or will perform any contract described in subsection (a) shall file with the department a return which contains:

- (1) the name and address of every subcontractor who is performing or will perform any part of the contract;
- (2) a statement of the gross receipts paid or to be paid to each subcontractor and the amount of gross income taxes withheld from such payments; and
- (3) the date such gross income taxes were remitted to the department.

(c) The returns required to be filed under this section shall be filed at the time of the signing of the contract, or immediately thereafter.

(d) The filing of the returns required by this section does not relieve any disbursing officer or any governmental entity described in subsection (a) from any other responsibility or duty the officer has as a withholding agent. However, the officer or entity will be relieved from including identical data in any information return required to be filed under section 10 of this chapter.

(e) Upon receiving a return required by this section, the department shall verify that all gross income taxes which are claimed to have been withheld and remitted to the department have actually been withheld and remitted. If the department determines that the gross income tax has not been withheld and remitted, then the department shall determine if the relevant contractor or subcontractor has paid the gross income tax. If the department determines that the gross income tax has not been paid, then the department shall collect the unpaid tax, and any penalty or interest due on the tax, using the procedures provided in IC 6-8.1-8.

As added by Acts 1981, P.L.77, SEC.1.

IC 6-2.1-5-12

Accounting; cash or accrual method

Note: This version of section effective until 1-1-2003. See also preceding repeal of this article, effective 1-1-2003.

Sec. 12. A taxpayer shall utilize either the cash or accrual method of accounting for purposes of determining his gross income tax

liability. If a taxpayer uses either the cash or accrual method of accounting for federal tax purposes, he must also use that same method in determining his gross income tax liability. If a taxpayer does not use either the cash or accrual method of accounting for federal tax purposes, he shall use the cash method in determining his gross income tax liability.

As added by Acts 1981, P.L.77, SEC.1.